

HB 124 CREATE STATE-LEVEL HEALTH INSURANCE EXCHANGE

FREQUENTLY ASKED QUESTIONS

What is an exchange?

An exchange is an online marketplace for individuals and small businesses to easily compare price, benefits, and quality among health plans, and facilitate the purchase of qualified health plans. Because plans are placed into actuarial tiers based on out-of-pocket costs, consumers can compare plans on an “apples-to-apples” basis. The Exchange is also the only forum for receiving federal subsidies in the individual market.

If the Montana Health Insurance Exchange is not operational until 2014, why do we need to pass HB 124 now?

Every state must have a functional and operational health insurance exchange running in January 2014. Therefore, if Montana does not show significant progress toward implementing a state-run exchange by January 1, 2013, the federal government will develop and oversee a health insurance exchange in Montana. The Montana Insurance Commissioner along with insurance companies, consumer and business groups, and healthcare providers believe that the Exchange should be created and run by Montanans.

HB 124 sets up the governance structure for the Montana Exchange but does not address all the details of the operations. The time between now and January 2014 will be used to study options for the operation of a Montana Exchange, adopt an effective business plan, work with stakeholders, coordinate with other state agencies, and design technology systems.

Will a market exist outside of the Montana Exchange?

This bill does not limit the market outside the Montana Exchange. The market outside the exchange will continue to exist and will function as it does today, particularly for employer groups. Individual purchasers who do not qualify for or do not wish to receive premium tax credits can still purchase their insurance outside the exchange.

Which sections of the bill are taken directly from the National Association of Insurance Commissioners (NAIC) model, and which are not?

Each state is anticipated to build a state-level exchange that addresses the specific needs of the individual state. The NAIC model regarding exchanges leaves decisions about governance up to the individual states. HB 124 incorporates the NAIC model into existing Montana law with the understanding of the Montana insurance market.

Is this a Massachusetts exchange or a Utah exchange?

HB 124 sets up a basic structure to create a Montana Health Insurance Exchange. This proposal uses the model created by state regulators at the National Association of Insurance Commissioners (NAIC). HB 124 meets the minimum requirements to show progress towards implementing an exchange, and incorporates some of the best practices from Utah and Massachusetts. One example is the defined contribution plan utilized in the Utah Exchange that was included in HB 124.

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How much will the Montana Exchange cost and how will it be paid for?

Section 10 clarifies that no state money will be used to support the Exchange. Federal grants have already been appropriated by Congress for planning and implementing the Exchanges. The cost of adapting or building computer systems, developing the business plan, researching various options, and initial public outreach will be funded with federal grants.

By 2015, the administration of the Montana Exchange must be self-supporting. HB 124 allows the Montana Exchange board to determine the annual administrative resources needed for the Exchange and a mechanism to fairly assess fees on health insurers to cover those administrative costs. That assessment would likely begin in 2014.

How do we know if the federal government will ever really come into Montana and set up a federally run exchange?

The federal law contains a “fallback” provision that will be triggered if a state has not made significant progress towards implementing a state-level exchange by January 1, 2013. In that case, the federal government will move forward with planning for a federal exchange to operate in that state. HHS is already developing plans for a federal exchange in states that “default.” In addition, building an exchange will take more than one year. If a bill is not passed to enable the progress of implementing a Montana Exchange in 2011, our next chance in 2013 will be too late.

Isn't Congress going to overturn the federal health reform law?

Given the current make-up of congress and the presidency, that seems unlikely. The legal challenges that have been brought are mainly focused on the “individual mandate.” Even if the “individual mandate” is found to be “unconstitutional,” the rest of the bill would stand. The guaranteed issue of health insurance with no pre-existing condition exclusions, without an individual mandate presents a problem for health insurers and the cost of insurance. Despite all of this, the exchange section of federal law will still be in effect.

Why should we set up a “quasi-governmental” structure?

The federal law outlines two options for governance, either as a government agency or as a private non-profit. The NAIC model law does not recommend a particular option, but lays out the pros and cons of the options. Each option has advantages, but the blending of the two into a quasi-governmental board is the best option. First, a quasi-governmental board retains transparency and requires the board to follow public meeting laws. Second, the Insurance Commissioner feels it would be inappropriate to set up the Montana Exchange Authority as a state agency using state resources because it is not using state funding. The staff of the Exchange should not be state employees for the same reason.

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Why is “small employer” defined as 1-100 employees, rather than the current 2-50?

The definition of small employer from 1-100 is used to encourage participation to ensure a viable Montana Exchange. In 2016, the definition of a small employer will change to 1 to 100, pursuant to the minimum standards of federal law. This bill would implement the change two years earlier and allow for greater participation of Montana’s small businesses in the Exchange. The definition for small employer in the market outside the exchange could be changed in 2013. The definition should be the same inside and outside the exchange.

What is the rationale for the make up of the board?

Appointments to the Exchange Authority Board are made by the Governor and the Insurance Commissioner, with approval by the State Senate. The goal is to have a professional Montana Exchange Authority Board that includes the necessary expertise. The Exchange board members are charged to “certify” and “rate” health plans. The board should be free of any conflicts of interest, which is why insurance company members are not allowed.

What are the “free choice vouchers” which are described on page 7, line 19?

Free choice vouchers are given to employees who are unable to afford the premium for their employee sponsored health plan. A voucher for the amount of the employer contribution is given to the employee by the employer to purchase insurance in the individual market in the Exchange, where the employee will have access to cost-sharing tax credits. An employee is eligible for a voucher only if their income makes them eligible for subsidies and the employer-sponsored insurance costs are between 8% and 9.8% of their household income. The vouchers ensure that the employer will not pay a penalty and are thus important for Montana businesses.

What about mandates? Will Montana’s market be forced to offer more mandates and drive up the cost of premiums?

The minimum benefit requirements contained in the federal law will be implemented, regardless of whether Montana has a state-based exchange. The federal law requires all health plans to cover essential benefits.

Why does the bill go into detail about exemptions from the “individual responsibility” requirement on page 6, lines 3-9?

The individual responsibility provision is from the federal law and is contained in the NAIC model law. The Exchange Authority is assigned the responsibility of certifying an exemption for individuals because there is no affordable option for coverage, or because of membership in certain groups. If an exemption is not granted, the individual will face a federal tax penalty for not having health care coverage.

Is Montana required to set up a defined contribution plan? Is this required in the NAIC model law?

The defined contribution plan is a solution modeled directly after Utah's Exchange. While this specific mechanism is not required, the provision would meet the federal requirement for employee choice in the small business [SHOP] exchange.

Why should we limit the number of plans in the Exchange? Is this required in the NAIC model law?

This is not addressed in the model law. However, the NAIC is working on "white papers" to address this issue and make recommendations. The purpose of the Exchange is to make buying insurance easier for individuals and small businesses. Some of the critique of the current system is that shopping for plans is difficult and it is nearly impossible to accurately comparison shop. Having a lot of plans that offer similar coverage for similar premium puts consumers back in the position they were in before the Exchange.

In HB 124, an insurer can offer up to 3 plans in each of the five different levels or 15 total plans. This is not unlike what happens in the marketplace currently and is in place to make sure the Exchange remains a viable, consumer-friendly tool.

Would any of Montana's schools be eligible to purchase coverage in the Exchange?

School districts and other local government entities that meet the definition of "small employer" and also wish to purchase private health insurance and not be "self-funded" could purchase insurance through the SHOP exchange.

Will public insurance be offered in the Exchange?

No. That is not contemplated in this bill. The exchange will be a single point of entry for individuals who qualify for tax credits or other public programs. If someone is determined to be eligible for CHIP or Medicaid, they will be issued coverage by DPHHS, just like they are now. Otherwise, they will purchase a plan from a private company.